

Medicaid: Insurance

According to the DHS/DCFS Contract, Part I. B. 4.,

CONTRACTOR MUST PROVIDE INSURANCE AND INDEMNIFICATION:

a. Required Insurance. The Contractor shall maintain adequate protection against liability as specified in this Contract. Specifically, the Contractor shall maintain commercial insurance or self-insurance for the dollar amounts and types of coverage specified in this Contract. Any commercial insurance shall be obtained from insurance companies authorized to do business in the State of Utah and rated "A-" or better with a financial size category of Class VII or larger, according to the ratings and financial size categories published by AM. Best Company at the time this Contract is executed. Commercial insurance may be obtained from an insurance company that does not meet the above stated A M. Best Company rating and/or class size, if the Contractor provides documentation verifying the insurance company providing the Contractor's insurance is reinsured by another affiliated insurance company that does meet the required rating and class size requirements.

The Contractor's general and professional liability insurance policies shall include an endorsement that names the State of Utah, DHS, DHS/DCFS and their officers, and employees as additional insureds. The additional insured endorsement shall provide the State of Utah, DHS, DHS/DCFS and their officers and employees with primary coverage (not contributing coverage) for any liability arising as a result of the Contractor's acts or omissions in connection with this Contract. The Contractor is not required to obtain an "additional insured" endorsement for any automobile or Workers' Compensation insurance policy required by this Contract.

If the Contractor is an "individual" providing services of less than 25 hours per week, the additional insured endorsement may omit the requirement that the endorsement be primary coverage. The term individual as used in this subsection means the Contractor provides the services pursuant to this Contract him or herself and does not employ other professionals to provide such services. ·

b. Deductibles and Similar Costs. The Contractor shall be responsible for paying any deductibles, self-insured retentions or self-insurance costs and similar items. The deductibles, self-insured retentions, self-insurance costs, and similar items for the insurance policies required by this Contract may not exceed \$10,000.00, unless the Contractor obtains prior written approval of a higher amount from the DHS Deputy Director for Support Services who may withhold approval for any reason.

c. Types of Liability Protection the Contractor Shall Provide:

(1) Private Contractor-Commercial Insurance Required: If the Contractor is not a governmental entity of the State of Utah, the Contractor shall maintain the following policies of liability insurance at its sole expense during the term of this Contract, unless the Contractor has already satisfied the requirements of the self-insurance provision below:

(a) General Liability Insurance: The Contractor shall maintain a policy of general liability insurance that at a minimum covers the following types of liability: bodily injury or death, personal injury, property damage, broad from property damage, and liability for the property of others in the care, custody and control of the Contractor. The policy shall provide for a combined single limit or the equivalent of not less than \$1,000,000 for each occurrence and \$2,000,000 aggregate. If the Contractor is providing services at more than one site, the general liability insurance must cover each of those sites. If the general liability

insurance coverage obtained by the Contractor is written on a "claims-made" basis, the certificate of insurance shall so indicate, and the policy shall contain an extended reporting period provision or similar "tail" provision such that the policy covers claims reported up to five years beyond the date that this Contract is terminated. If the Contractor does not provide services in its own office or facility, the requirement for general liability insurance is waived.

(b) Automobile Insurance: If the Contractor's services involve transporting any clients or goods for DHS, the Contractor shall maintain a policy of automobile liability insurance covering property damage, personal injury protection, and liability for the vehicles used by the Contractor (including owned, hired and non-owned vehicles). The policy shall provide for a combined single limit, or the equivalent, of not less than \$1,000,000. If the Contractor subcontracts with another entity or individual for transportation services, or services that include transportation, the Contractor may satisfy this insurance requirement by submitting proof that its subcontractor has complied with the requirements of the "Insurance and Indemnification" section of this Contract.

If the Contractor provides individual residential care services by contracting with individual residential care homes, the Contractor shall maintain a policy of automobile liability insurance as indicated above, and each of the Contractor's individual residential care homes shall maintain a policy of automobile liability insurance. The automobile liability insurance required of individual residential care homes shall cover property damage, personal injury protection and liability with a combined single limit or the equivalent of not less than \$100,000 per person and \$300,000 for each accident/occurrence occurring during the course of their duties as an individual residential care home. As used in this provision, the term "individual residential care" refers to twenty-four hour family-based care for one or more clients in foster/proctor care, a host home, or a professional parent setting.

(c) Professional Liability Insurance: If the Contractor is and/or employs doctors, dentists, social workers, mental health therapists or other professionals to provide services pursuant to this Contract, the Contractor shall maintain a policy of professional liability insurance ("malpractice insurance") with a limit of not less than \$1,000,000 for each occurrence and \$2,000,000 aggregate. This professional liability insurance shall cover damages caused by errors, omissions or negligence related to the professional services provided pursuant to this Contract. If the professional liability insurance coverage obtained by the Contractor is written on a "claims-made" basis, the certificate of insurance shall so indicate, and the policy shall contain an extended reporting period provision or similar "tail" provision such that the policy covers claims reported up to three years beyond the date that this Contract is terminated.

(2) Self-Insured Private Contractor-No Commercial Insurance Required, But Indemnification and Prior DHS Approval Required: If the Contractor claims that it is self-insured, the Contractor shall provide DHS with evidence that the Contractor is financially solvent and has established financial arrangements (such as a written comprehensive self-insurance program, performance bonds or fidelity bonds) that will provide DHS with liability protection at least as adequate and extensive as the insurance

otherwise required pursuant to this Contract for non-governmental entities. Specifically, the Contractor must show that its ability to process and pay claims adequately, fairly and in a timely manner is comparable to a commercial insurer that provides general liability insurance, automobile insurance and professional liability insurance. Before executing this Contract, the Contractor shall obtain from the DHS Deputy Director for Support Services a written statement indicating that DHS has determined, based on the Contractor's financial evidence and representations, that the Contractor's self-insurance arrangements and indemnification agreements are sufficient to satisfy the requirements of this Contract, and the Contractor is therefore not required to obtain additional commercial liability insurance naming DHS as an insured party. If it sees fit, DHS may include in this statement any additional conditions designed to ensure that the Contractor's self-insurance arrangements are comparable to the insurance required of other non-governmental contractors. A copy of the Deputy Director's statement is attached to this Contract, and is a material provision of this Contract. Nothing in this provision shall be construed to require DHS to consent to any self-insurance arrangements, and DHS may withhold its approval for any reason.

d. All Contractors--Workers' Compensation: The Contractor shall comply with the Utah Workers' Compensation Act which requires employers to provide workers' compensation coverage for their employees.